

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
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Illinois Bell Telephone Company	)	CHIEF CLERK'S OFFICE
	)	
Application for Review of Alternative	)	Docket No. 98-0252
Regulation Plan	)	
Illinois Bell Telephone Company	)	
	)	
	)	
Petition to Rebalance Illinois Bell	)	Docket No. 98-0335
Telephone Company's Carrier Access and	)	
Network Access Line Rates	)	
	)	
Citizens Utility Board, People of the State of	)	
Illinois	)	Docket No. 00-0764
	)	
v.	)	
	)	
Illinois Bell Telephone Company	)	(Consol.)

**MOTION FOR LEAVE TO FILE *NUNC PRO TUNC***  
**Z-TEL'S PETITION TO INTERVENE AND**  
**RESPONSE TO THE JOINT MOTION TO REOPEN THE RECORD**

NOW COMES the Petitioner, Z-Tel Communications, Inc. ("Z-Tel "), by its attorneys O'Keefe Ashenden Lyons & Ward, pursuant to the Rules of Practice of the Illinois Commerce Commission, 83 Ill. Admin. Code, Section 200.200, and request that the Commission recognize Z-Tel's Petition to Intervene and Z-Tel's Response to the Joint Motion to Reopen the Record as being filed on January 22, 2002. Z-Tel states as follows in support of its motion:

1. On about January 16, 2002 Ameritech and the Consumer and Government intervenors filed a motio to reopen the record in this proceeding. The Commission set

January 22, 2002 as the date for parties to file responses to the Motion to Reopen the Record.

2. On January 22, 2002, Z-Tel Communications, Inc. prepared a petition to intervene and its Opposition to the Motion to Reopen the Record. Henry T. Kelly, counsel for Z-Tel reviewed the E-Docket listing in ICC Docket No. 00-0764, in which the Joint Motion to Reopen the Record was listed, as well as the order establishing the date for filing responses to the Motion.

3. Because the Joint Motion to Reopen the Record and the Order setting the schedule were posted on E-Docket, counsel assumed that it was therefore permissible to file Z-Tel's Petition to Intervene and Response to the Motion to Reopen the Record via E-Docket. At approximately 4:00 p.m. on January 22, 2001, Counsel for Z-Tel uploaded Z-Tel's Petition to Intervene and Response to the Motion to Reopen the Record on E-Docket. Counsel received a receipt from E-Docket acknowledging receipt of the uploaded documents.

4. Shortly after making the attempted filing, counsel for Z-Tel served *electronic copies of its Petition to Intervene and Response to the Joint Motion* on all parties of record. In addition, Counsel for Z-Tel served a copy of the Petition to Intervene and Joint Motion on all parties by depositing a copy of the pleadings in the United States Post Office, First Class postage prepaid.

5. Z-Tel has since learned that because this issue arises out of the Commission's proceeding in ICC Docket No. 98-0252, filing via E-docket was not available.

6. Z-Tel requests that the Commission accept for filing Z-Tel's Petition to Intervene and Z-Tel's Response to the Motion to Reopen the Record *nunc pro tunc* ("now for then.") In otherwords, Z-Tel requests that the Commission accept this filing now, but have it be effective January 22, 2002, the date of the original attempt to file via E-Docket so that Z-Tel's comments can be considered timely and so that the Commission can consider the comments with the arguments raised by other parties.

7. In the alternative, Z-Tel requests that the Commission accept *instantanter* Z-Tel's Response to Reopen the Record.

8. No party will be prejudiced by the granting of this motion. All parties were served with copies of the Petition to Intervene as well as copies of the Response to the Petition to Reopen the Record in both electronic format, as well as by U.S. Mail delivered on January 22, 2002. Z-Tel would note that in its Reply in support of the Motion, Staff has commented on Z-Tel's arguments. Z-Tel also understands that this has happened previously in this proceeding.

Wherefore, for each of the foregoing reasons, Z-Tel Communications, Inc. respectfully requests that the Commission accept Z-Tel's Petition to Intervene and

Response to the Motion to Reopen the Record *nunc pro tunc*. In the alternative, Z-Tel requests that the Commission grant leave to file Z-Tel's Petition to Intervene and Response to the Motion to Reopen the Record *instante*.

Respectfully submitted,

Z-TEL COMMUNICATIONS, INC.



Henry T. Kelly, One of its attorneys.

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